

**REMARKS/ARGUMENTS**

Claims 1-31 stand canceled.

Claims 32-36 are newly added, and consideration in view of the following remarks is  
5 respectfully requested.

The initially submitted claims were rejected over Gross et al. U.S. Patent Application Publication No. US 2004/0130296. Gross et al. '296 discloses a method for determining the performance of a battery 2 providing a vehicle power supply system voltage U for a vehicle power supply system 4 for a vehicle 6. Figs. 2 and 3 show the current I and voltage U,  
10 respectively, during the starting process, including during time window Z. As noted at page 3, right column, lines 4-19:

*...the monitoring unit 10 monitors the characteristics, as recorded by means of the sensors 12 and 14, of the vehicle power supply system voltage U and of the vehicle power supply system current I,  
15 respectively, for compliance with limit values G which characterize the predetermined load situation. If, as is shown for the starting process in the example in FIG. 3, the vehicle power supply system voltage U rises again at the end of the time window Z and exceeds the lower voltage level, in particular the lower limit value G, then the preconditions for  
20 the emergency operating phase are satisfied by the battery 2.*

*If, on the other hand, the vehicle power supply system voltage U falls below the limit value G or does not rise to an appropriate extent above it in the time period or window Z under consideration, then the battery  
25 2 is no longer suitable for emergency operation.*

Gross et al. '296 further notes at page 3, right column, lines 27-33, that:

*...these characteristic voltage/current characteristics for the various  
30 operating phases or operating modes are stored, and are used by the computer unit 16 for monitoring for compliance with the limit values*

*G on the basis of the instantaneously recorded values of the vehicle power supply system voltage U and vehicle power supply system current I.*

5 Present claim 32 requires storing a plurality of the measured voltage characteristics for a plurality of subsequent magnitudes of the measured voltage characteristics obtained during subsequent measuring events, and requires providing a table of a plurality of pre-selected voltage values, including a threshold acceptability voltage value and a plurality of gradation voltage values. It is unclear whether these limitations are met by Gross et al. '296. As noted in the  
10 passage above, Gross et al. '296 stores *characteristic voltage/current characteristics for the various operating phase or operating modes...for monitoring for compliance with the limit values G on the basis of the instantaneously recorded values of the vehicle power supply system voltage U*. Consideration is respectfully requested as to whether the noted limitations of claim 32 are adequately taught or suggested in Gross et al. '296, at least as to whether an initial prima  
15 facie burden has been met.

Beyond the above noted limitations, claim 32 additionally requires that the measured voltage characteristic be compared to all three of the following:

- a) the pre-selected threshold acceptability voltage value;
- 20 b) the pre-selected plurality of gradation voltage values;
- c) the stored plurality of measured voltage characteristics of the subsequent magnitudes.

25 This combination is nowhere taught nor suggested in Gross et al. '296. Consideration and allowance of claim 32 on such basis is respectfully requested.

Claim 32 yet further requires providing all three of the following in combination:

- 1) an indication of whether the condition of the battery is acceptable, according to the noted pre-selected  
30 threshold acceptability voltage value;

- 2) an indication of the grade of battery condition, according to the pre-selected plurality of gradation voltage values;
- 3) an indication of the trend of battery condition grade, according to the plurality of measured voltage characteristics.

Gross et al. '296 notes at page 3, left column, lines 33-38:

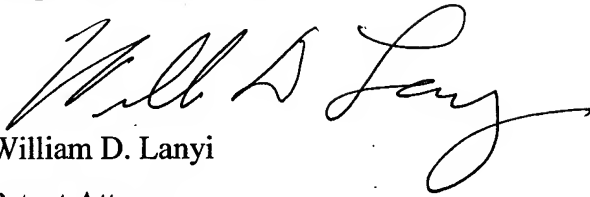
*A load on the battery 2 that results from the large amount of current drawn during the starting process is sufficiently high to allow assessment of the future performance of the battery 2 on the basis of this, as a function of the associated characteristic profile of the vehicle power supply system voltage U.*

Thus, while Gross et al. '296 does note the "assessment of the future performance of the battery 2", there is no teaching nor suggestion of the particular method for predicting future performance set forth in claim 32. Furthermore, there is no disclosure nor teaching in Gross et al. '296 of the defined combinational requirement in claim 32 of providing all three of the noted indications in combination, including an indication of whether the condition of the battery is acceptable and an indication of the grade of battery condition and an indication of the trend of battery condition grade as defined. It is respectfully submitted that disclosure of a genus (e.g. *assessment of the future performance* noted in Gross et al. '296, page 3, left column, line 35) does not teach nor render obvious a particularly defined species. The Examiner is respectfully requested to consider the particular method steps and combination now set forth in claim 32.

Claims 33-36 depend from claim 32 and are believed allowable for the reasons noted above. Furthermore, these claims define subcombinations which are believed allowable.

It is believed that this application is now in condition for allowance with claims 32-36, and such action is earnestly solicited.

Respectfully Submitted,



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